

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
)

2000 Biennial Regulatory Review)
Streamlining and Other Revisions of)
Part 25 of the Commission's Rules)
Governing the Licensing of, and)
Spectrum Usage by, Satellite Network)
Earth Stations and Space Stations)
_____)

IB Docket No. 00-248

**REPLY COMMENTS
OF ECHOSTAR ACQUISITION L.L.C.**

EchoStar Acquisition L.L.C. ("EchoStar") hereby submits these Reply Comments in support of the commenters in this proceeding who oppose the Commission's proposed ban on all C-band and Ku-band analog satellite video transmissions.¹ EchoStar agrees with those commenters that the interference concerns driving the proposed ban are unwarranted.² Furthermore, the burdens that a ban would impose on companies and consumers are significant and unnecessary. Indeed, such a ban would lead to dislocations and loss of service by hundreds of thousands of customers who rely on such

¹ See 2000 Biennial Regulatory Review Streamlining and Other Revisions of Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Earth Stations and Space Stations, Sixth Report and Third Further Notice of Proposed Rulemaking, 20 FCC Rcd 5593, ¶¶ 84-88 (2005) ("Third FNPRM").

² See Comments of the Satellite Industry Association, *filed in* IB Docket No. 00-248, at 23-26 (Sept. 6, 2005) ("SIA Comments"); Joint Comments of CBS Broad., Inc., Fox Broad. Co., Microspace Commuc'n Corp., MTV Networks, Showtime Networks Inc., Twentieth Television and the Walt Disney Co., *filed in* IB Docket No. 00-248, at 2 (Sept. 6, 2005) ("Joint Comments"); Comments of SES Americom, Inc., *filed in* IB Docket No. 00-248, at 4-6 (Sept. 6, 2005) ("SES Comments"); Comments of Time Warner Inc., *filed in* IB Docket No. 00-248, at 6 (Sept. 6, 2005) ("Time Warner Comments"); Comments of National Programming Service, LLC, *filed in* IB Docket No. 00-248, at 3 (Sept. 6, 2005) ("NPS Comments").

transmissions for their video programming as well as other analog services. The Commission should therefore allow market forces -- rather than regulatory intervention -- to drive the transition to digital transmissions. If the Commission nevertheless bans such transmissions, it needs to extend the proposed one-year transition period to up to five years because of the number of affected users and the significant costs and time associated with replacing all of the legacy subscriber equipment.

I. Background

EchoStar uses analog satellite transmissions primarily for three separate businesses acquired from Gemstar-TV Guide in July 2004:³ (1) UVTV (formerly United Video TV, UVTV-A, UVTV-X and Telluride) delivers superstation programs to several hundred cable television C-band headends throughout the country that in turn are provided to their subscribers; (2) Superstar/Netlink resells programming packages primarily to residential homes in rural areas in the United States (approximately 170,000) using C-band antennas and equipment; and (3) Spacecom provides audio and data subcarriers (not video) over analog Ku-band transmissions to approximately 70,000 subscribers for one-way paging services as well as the distribution of important weather, financial and other information.⁴

While EchoStar has initiated efforts to transition some of its UVTV cable customers from analog to digital equipment, that transition will not be completed until the end of next year. There are no current plans to transition its other analog transmission businesses to digital carriers, and EchoStar estimates that it would take upwards of five years to do so at a cost of approximately \$50 to

³ See *Applications of EchoStar Acquisition L.L.C.*, IB File Nos. SES-ASG-20040308-00336; SES-ASG-20040308-00338 (granted April 20, 2004; consummated July 7, 2004).

⁴ EchoStar does not interpret the proposed ban on analog video transmissions as applying to these one-way paging and other data services even though they are provided over analog carriers. The Third FNPRM only refers to “analog video services,” and the transmission of these audio and data subcarriers is spread over a fixed bandwidth without the peaking that occurs for video transmissions.

\$100 million due to the numbers of geographically dispersed subscribers and the need to effectuate a truck roll for most of these equipment conversions.

II. Discussion

EchoStar supports the many comments made by interested parties to this proceeding against the proposed outright ban of all analog video transmissions in the C-band and Ku-band.⁵ Interference concerns are unwarranted, and a total ban would lead to dislocations and loss of service by hundreds of thousands of customers who rely on such transmissions for their video programming as well as other analog services.

In the Third FNPRM, the Commission asserts that changes must be made because it “has observed in the past that analog video transmissions are more susceptible to harmful interference from other transmissions and more likely to cause harmful interference to other transmissions.”⁶ This assertion is based on a Commission finding made over ten years ago.⁷ As several commenters correctly point out,⁸ analog video providers have successfully avoided interference through coordination, indicating that the threat identified in 1993 has not materialized. Indeed, EchoStar is not aware of any unresolved interference complaints regarding the services that it provides. The Commission’s current rules, which identify maximum power levels and minimum antenna size for

⁵ See Comments of National Cable and Telecommunications Ass’n, *filed in* IB Docket No. 00-248 (Sept. 6, 2005) (“NCTA Comments”); Comments of The C-SPAN Networks, *filed in* IB Docket No. 00-248 (Sept. 1, 2005) (“C-SPAN Comments”); SIA Comments; Joint Comments; SES Comments; Time Warner Comments; NPS Comments.

⁶ See Third FNPRM at ¶ 87.

⁷ See Third FNPRM at ¶88 n.218 (citing *Amendment of Part 25 of the Commission's Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communication Services*, Second Report and Order and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1316, ¶24 (1993)).

⁸ See, e.g., SES Comments at 4-6; SIA Comments at 22.

analog transmissions, are working. An outright ban on analog video transmissions cannot be justified on the basis of such unsubstantiated risks. Furthermore, as other commenters have noted, a regulatory ban on analog video transmissions would not lead to any more efficient spectrum use than would otherwise be achieved through market mechanisms.⁹

Even if analog video transmissions were to present the possibility of harmful interference, the burdens imposed by the Commission's suggested remedies would far outweigh the hypothetical benefits.¹⁰ The off-axis EIRP density limits proposed by the Commission¹¹ would not provide the necessary reduction in interference, and, as the Satellite Industry Association demonstrates, they actually may create less predictable interference events.¹²

A complete ban on analog video transmissions is also inappropriate and unnecessary. As the Commission noted in the Third FNPRM, "analog satellite transmissions are in decline."¹³ Market forces already have reduced the number of analog video services currently being provided, and we expect that trend to continue. Thus, any hypothetical harmful interference would naturally diminish over time. Moreover, as the Joint Commenters point out, analog transmissions provide important services.¹⁴ Many broadcast programmers, including the superstations provided by EchoStar to cable headends, currently rely on analog transmission equipment to deliver their programming to

⁹ See SES Comments at 7; SIA Comments at 26.

¹⁰ See Third FNPRM at ¶85-87.

¹¹ See *id.* at ¶85-86.

¹² SIA Comments at 22. EchoStar supports the SIA technical analysis of the EIRP density limitation option and does not attempt to provide a separate technical statement in these Reply Comments.

¹³ Third FNPRM at ¶87.

¹⁴ Joint Comments at 4.

cable subscribers,¹⁵ and the remaining backyard C-band dish owners have so far been unwilling to purchase new digital equipment to replace their analog receivers.

Nonetheless, if the Commission were to ban analog video transmissions regardless of these burdens, more time is needed to transition exiting customers to digital services. Allowing market forces (rather than regulatory intervention) to drive this digital transition will ensure that companies and subscribers are not suddenly burdened with substantial equipment upgrade costs. Several commenters point to the problems a one-year transition period would create for satellite providers and their subscribers. For example, Time Warner discusses the inability of equipment manufacturers to provide sufficient equipment and support in the suggested timeframe,¹⁶ and C-SPAN laments how its long-term budget planning did not account for such a significant capital expenditure in such a short time period.¹⁷ While EchoStar's UPTV services are being transitioned to digital carriers, it will take more than a year to complete such a conversion. And it will take even longer and will be far more costly to replace hundreds of thousands of residential C-band dishes with digital receivers and new antennas. EchoStar estimates that up to five years would be needed to complete conversions for its subscribers alone at a cost of tens of millions of dollars.¹⁸

¹⁵ *See id.* at 3-4.

¹⁶ Time Warner Comments at 4-5.

¹⁷ C-SPAN Comments. *See also* NCTA Comments at 2.

¹⁸ EchoStar estimates that it would cost another \$30 to \$50 million to convert the Spacecom analog equipment in the field used by approximately 70,000 subscribers. As previously indicated, EchoStar does not interpret the Commission's proposed ban to include such non-video analog services.

III. Conclusion

EchoStar urges the Commission to take the foregoing Reply Comments into account in considering any proposed revisions to Part 25 of its rules.

Respectfully submitted,

/s/

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